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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,054	02/07/2002	Vittoriano DiLuzio	VIFAN.UTL	3391

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HINKLE & O'BRADOVICH, LLC  
395 SCENIC HIGHWAY  
LAWRENCEVILLE, GA 30045

EXAMINER
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JACKSON, MONIQUE R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/071,054

Applicant(s)

DILUZIO ET AL.

Examiner

Monique R Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: the specification recites a density range for the polyethylene in the layer to be metallized but it does not include units for the density values.

Appropriate correction is required.

### ***Claim Objections***

2. Claim 6 is objected to because of the following informalities: the claim recites density values for the polyethylene but do not include the units for these values. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-8 and 10-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "thin metal layer" in claim 1 is a relative term which renders the claim indefinite. The term "thin" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4 and 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Migliorini et al (USPN 5,194,318.) Migliorini et al teach a multilayer film with metallized surface comprising a core layer of propylene homo-, co- or terpolymer, and a metallizable surface layer of high density polyethylene which is provided with vacuum metallized layer of aluminum to an optical density of 1.8 to 2.5, wherein the thickness of the film, core, and surface layers are within the instantly claimed ranges (Abstract; Col. 1, line 54-Col. 2, line 7; Col. 2, lines 15-57; Col. 3, lines 3-6; Examples.)

7. Claims 1-2 and 5-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bader et al (USPN 5,972,496.) Bader et al teach a film structure comprising a polypropylene core layer (b), such as propylene homopolymer, that comprises about 70 to about 95% of the film thickness, and a skin layer (c) comprising an ethylene homopolymer that is metallized by application of a thin metal layer to an optical density of preferably about 1.8 to about 2.6, wherein the ethylene of the skin layer may be MDPE and preferably has a density between about 0.94 and 0.96 g/cc, and wherein the skin layer (c) and the film have thickness within the instantly claimed ranges (Abstract; Col. 3, lines 6-34; Col. 4, line 61-Col. 5, line 59; Col. 6, lines 8-13; Examples.)

***Claim Rejections - 35 USC § 103***

8. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bader et al in view of Migliorini et al. The teachings of Bader et al are discussed above. Bader et al teach that the core is preferably polypropylene, particularly highly isotactic polypropylene, exemplifying polypropylene homopolymer, and that preferred polypropylenes are well known in the art but do

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not specifically teach that the polypropylene of the core layer is a copolymer or a terpolymer. However, propylene copolymers and terpolymers are obvious species of polypropylene utilized as a core layer in a metallized multilayer substrate as taught by Migliorini et al (Col. 1, lines 54-64) and hence would have been obvious to one having ordinary skill in the art at the time of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 703-308-0428. The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J Thibodeau can be reached on 703-308-2367. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Monique R. Jackson  
Patent Examiner  
Technology Center 1700  
May 19, 2003